

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----X
YEVGENIY DIKLER,

4 PLAINTIFF,

5 Docket No.:

07 CIV 5984

6
-against-

7 THE CITY OF NEW YORK,
8 DETECTIVE MICHAEL VISCONTI Shield # 06482,
SECURITY OFFICER WILSON VEGA,
9 HWA INC.,

10 DEFENDANTS.
-----X

11
12 DATE: April 2, 2008

13 TIME: 10:50 a.m.
14
15

16 EXAMINATION BEFORE TRIAL of the
17 Plaintiff, YEVGENIY DIKLER, taken by the
18 Defendants, pursuant to a Court Order, held at
19 the offices of LESTER SCHWAB KATZ & DWYER, LLP,
20 120 Broadway, New York, New York 10271, before
21 a Notary Public of the State of New York.
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Page 4

1
2 APPEARANCES:
3
4 LAW OFFICE OF DAVID A. ZELMAN
5 Attorney for the Plaintiff
6 612 Eastern Parkway
7 Brooklyn, New York 11225

8 MICHAEL A. CARDOZO, ESQ.
9 CORPORATION COUNSEL
10 Attorney for the Defendants
11 THE CITY OF NEW YORK and
12 MICHAEL VISCONTI Shield # 06482
13 100 Church Street
14 New York, New York 10007
15 BY: JOYCE CAMPBELL PRIVETERRE,
16 Assistant Corporation Counsel

17 LESTER SCHWAB KATZ & DWYER, LLP
18 Attorneys for the Defendants
19 SECURITY OFFICER WILSON VEGA and
20 HWA INC.
21 120 Broadway
22 New York, New York 10271
23 BY: LEONARD S. SILVERMAN, ESQ.
24
25

* * *

Page 3

Page 5

2 FEDERAL STIPULATIONS

3
4 IT IS HEREBY STIPULATED AND AGREED
5 By and between the counsel for the respective
6 parties hereto, that the filing, sealing, and
7 certification of the within deposition shall
8 Be and the same are hereby waived;
9

10 IT IS FURTHER STIPULATED AND AGREED
11 That all objections, except as to the form
12 Of the question, shall be reserved to the times
13 Of the trial.

14
15 IT IS FURTHER STIPULATED AND AGREED
16 That the within deposition may be signed before
17 Any Notary Public with the same force and
18 effect
19 As if signed and sworn to before this court.

20 * * * *
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25

1 DIKLER
2 YEVGENIY DIKLER, called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:
6 EXAMINATION BY
7 MS. PRIVETERRE:
8 Q. Please state your name for the
9 record.
10 A. Yevgeniy Dikler.
11 Q. Where do you reside?
12 A. 1902 81st Street, Apartment 1F,
13 Brooklyn, New York 11214.
14 Q. Good morning, Mr. Dikler.
15 A. Good morning.
16 Q. My name is Joyce Campbell
17 Priveterre and I am an attorney with the
18 New York City Law Department. I represent the
19 City of New York and also Detective Visconti
20 and I'm going to ask you some questions about
21 the lawsuit that you've commenced.
22 Before I begin with my questioning,
23 I just have a few ground rules that I want to
24 discuss with you about these proceedings.
25 First and foremost is to keep your responses

1 DIKLER
2 verbal. That is, don't nod your head or shake
3 your hands, the Court Reporter can't take down
4 gestures, so you have to speak your responses;
5 do you understand that?
6 A. I understand.
7 Q. And will you comply?
8 A. Yes.
9 Q. Okay. Also if you anticipate what
10 I'm going to ask you, please allow me the
11 courtesy of completion because we want a clean
12 record so the Court Reporter can take down my
13 questions in its entirety and then take down
14 your response in its entirety; do you
15 understand that?
16 A. I understand.
17 Q. And will you comply?
18 A. Yes.
19 Q. If I ask you a question and you
20 don't understand that, just say so, I'm not
21 trying to trick you, say I don't understand or
22 please ask that again and I will; will you do
23 that?
24 A. I will.
25 Q. If you need a break, please say so.

2 (Pages 2 to 5)

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1 DIKLER
 2 The only caveat is that you should not ask for
 3 a break when there's a pending question so you
 4 are obliged to give your response and then you
 5 can have your break; do you understand?
 6 A. I understand.
 7 Q. And will you comply?
 8 A. Yes.
 9 Q. Are you taking any medications
 10 presently?
 11 A. Yes.
 12 Q. What are you taking?
 13 A. Diovan 160.
 14 Q. How do you spell that; do you know?
 15 A. D-I-O-V-A-N 160.
 16 Q. Milligrams?
 17 A. This is the name, I don't know.
 18 Q. Okay. Diovan 160. And what is
 19 that prescribed for?
 20 A. High blood pressure.
 21 Q. Okay. Any other medications?
 22 A. No.
 23 Q. Did you take your Diovan this
 24 morning?
 25 A. Not yet.

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1 DIKLER
 2 Q. Have you taken any other
 3 prescription drugs or non-prescription drugs
 4 this morning?
 5 A. No.
 6 Q. Have you had anything to drink this
 7 morning?
 8 A. Coffee.
 9 Q. Okay. Any alcoholic beverages?
 10 A. No.
 11 Q. Is there anything that would
 12 prevent you from testifying truthfully and
 13 accurately this morning?
 14 A. No.
 15 Q. Okay. When were you diagnosed with
 16 high blood pressure?
 17 A. Couple years ago.
 18 Q. Couple, is that two, three or more?
 19 A. Two years ago, approximately.
 20 Q. And who was the physician that
 21 prescribed the Diovan?
 22 A. Dr. Andrew Weiss.
 23 Q. Are you still consulting with him?
 24 A. Two weeks ago I change my doctor
 25 but.

Page 8

1 DIKLER
 2 MR. ZELMAN: Just try to answer the
 3 question. Are you still consulting with
 4 him?
 5 THE WITNESS: I will.
 6 Q. You intend to go back to him?
 7 A. Yes.
 8 Q. Two weeks ago, you changed your
 9 primary care physician?
 10 A. Yes.
 11 Q. And he was your primary care
 12 physician; is that right?
 13 A. Yes.
 14 Q. Is there a reason that you changed
 15 two weeks ago?
 16 A. I got problem with my low back so I
 17 change for -- I make some osteopath doctor my
 18 primary physician.
 19 Q. And what doctor is that, what's the
 20 doctor's name?
 21 A. Michael Riskevich.
 22 Q. Can you help me with the last name?
 23 If not, we'll leave a blank in the record.
 24 A. R-I-S-C, no, no (indicating), it's
 25 much easier for me to put on the paper.

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1 DIKLER
 2 Q. Okay.
 3 A. (Indicating).
 4 MR. ZELMAN: If you don't remember,
 5 you don't remember.
 6 THE WITNESS: I remember.
 7 A. (Indicating).
 8 MS. PRIVETERRE: Mr. Dikler has
 9 handed me a piece of paper with the
 10 doctor's last name written out,
 11 R-I-S-K-E-V-I-C-H.
 12 Q. Are there any other physicians that
 13 you are presently treating with?
 14 A. No.
 15 Q. What's your date of birth, sir?
 16 A. May 15, 1961.
 17 Q. And where do you presently reside?
 18 A. I'm sorry, I don't understand.
 19 Q. Where do you live?
 20 A. 1902 81st Street, Apartment 1F like
 21 Frank, Brooklyn, New York 11214.
 22 Q. Are you married?
 23 A. Yes.
 24 Q. To whom?
 25 A. Svetlana Anuchina, A-N-U-C-H-I-N-A.

3 (Pages 6 to 9)

Page 10

1 DIKLER
 2 Q. Do you have any children?
 3 A. Yes.
 4 Q. How many?
 5 A. Four.
 6 Q. What are their names and ages?
 7 A. Igor, age 27 now. Michael, age 25
 8 now. Jennifer, nine. And Maria, six.
 9 Q. How long have you resided at
 10 1902 81st Street?
 11 A. Since 2000.
 12 Q. Are you presently employed?
 13 A. Yes.
 14 Q. By whom?
 15 A. MTA.
 16 Q. What's your job title?
 17 A. Bus operator.
 18 Q. Since when have you been a bus
 19 operator?
 20 A. I was hired January 12, 2004.
 21 Q. You hold a Class D license?
 22 A. Yes.
 23 Q. Any other licenses?
 24 A. I'm sorry. Which class?
 25 Q. D as in Diane, is it D?

Page 11

1 DIKLER
 2 A. My license BP. Commercial, B is
 3 commercial, and P, passenger.
 4 Q. Do you hold any other licenses
 5 professional or otherwise?
 6 A. No.
 7 Q. When did you obtain the Class B
 8 license?
 9 A. Around 2000, I don't remember
 10 exactly.
 11 Q. Where were you born?
 12 A. Soviet Union.
 13 Q. And when did you first come to the
 14 United States to live permanently?
 15 A. 1996.
 16 Q. Are you a citizen of the United
 17 States?
 18 A. Yes.
 19 Q. Since when?
 20 A. Since 2002.
 21 Q. 2002?
 22 A. Yes.
 23 Q. Is your wife also a citizen?
 24 A. Not yet.
 25 Q. Where were you employed prior to

Page 12

1 DIKLER
 2 working as an MTA bus operator?
 3 A. I was working for Empire Auto
 4 Corporation in New Jersey.
 5 Q. By the way, let me just step back.
 6 What is your present bus route?
 7 A. You mean now?
 8 Q. Yes.
 9 A. B44, Nostrand Avenue.
 10 Q. Okay. What was your job title with
 11 Empire Auto Corporation?
 12 A. Truck driver.
 13 Q. For how long were you a truck
 14 driver?
 15 A. Since 1997.
 16 Q. Did you have any other employment
 17 since coming to the United States other than
 18 the MTA and Empire Auto Corporation?
 19 A. Some period I work for myself like
 20 self employee.
 21 Q. Doing what?
 22 A. Delivery on my own truck.
 23 Q. Since coming to the United States,
 24 have you ever been a recipient of any public
 25 aid or welfare?

Page 13

1 DIKLER
 2 A. No.
 3 Q. How about any Social Security
 4 benefits, any disability benefits?
 5 A. No.
 6 Q. Prior to commencing this lawsuit,
 7 have you ever sued anyone before?
 8 A. Yes.
 9 Q. When was that?
 10 A. This was a car accident in 1999.
 11 Q. And how did that lawsuit resolve?
 12 A. We win.
 13 Q. Was this your private vehicle or
 14 was this while on the job?
 15 A. It was my private vehicle and I was
 16 in the passenger, my wife drive.
 17 Q. I'm going to ask you some questions
 18 about the incident, the date of the incident
 19 being March 22nd 2006; is that correct?
 20 A. Correct.
 21 Q. Did you go to work on March 22nd
 22 2006 or had you the day off?
 23 A. I have to work but I work late.
 24 Q. When you say late, what do you
 25 mean?

4 (Pages 10 to 13)

Page 14

1 DIKLER
 2 A. I start like 4:00 p.m.
 3 Q. That was your shift?
 4 A. Yes.
 5 Q. From 4:00 p.m. to what?
 6 A. To 12:00.
 7 Q. What did you do earlier in the day
 8 on March 22nd 2006?
 9 A. My wife, she got appointment on
 10 federal building, Federal Plaza 26 and I
 11 followed her.
 12 Q. And what was the reason for her
 13 appointment at 26 Federal?
 14 A. It was her green card case.
 15 Q. Was she applying for the green
 16 card?
 17 A. Yes.
 18 Q. Were you there for what's called
 19 Stokes interview, do you know what that is?
 20 A. I don't understand, I'm sorry.
 21 Q. Withdrawn. Were you being
 22 interviewed jointly or was this just for your
 23 wife?
 24 A. Jointly because petition from her
 25 green card was from me.

Page 15

1 DIKLER
 2 Q. Okay. Petitioning for your wife to
 3 get a green card?
 4 A. Yes.
 5 Q. Had you ever been to 26 Federal
 6 before?
 7 A. Yes.
 8 Q. When was the last time prior to
 9 3/22/06 that you had been there?
 10 A. I know I was in June of 2005,
 11 probably it was the last time, I don't remember
 12 exactly.
 13 Q. And what was the purpose for that
 14 visit in June 2005?
 15 A. Appointment for my wife's case.
 16 Q. Do you remember the date in June of
 17 '05?
 18 A. Probably I'm wrong, June 5th,
 19 something like that.
 20 Q. I don't want you to guess. We'll
 21 leave a blank in the record.
 22
 23 Q. Had you any problems getting into
 24 the building that date in June 2005?
 25 A. Security officer realize I got

Page 16

1 DIKLER
 2 shield and he stop me.
 3 Q. And what kind of shield did you
 4 have?
 5 A. It was the inside my wallet, like
 6 parts of the wallet, that shield like New York
 7 City emblems and words New York City Transit,
 8 my badge number and title operator.
 9 Q. Did anything else happen on that
 10 date in June 2005?
 11 A. The security officer, he call for
 12 federal security service detective.
 13 Q. Now, you realize we're talking
 14 about the June 2005 date, not the present?
 15 A. Yes.
 16 Q. And then what happened?
 17 A. Federal security service detective
 18 check my work ID, my pass, checked the badge
 19 and he tell me and security officer the badge
 20 is good and all papers is good. He give me all
 21 my stuff back and he release me.
 22 Q. How long were you detained, how
 23 long did this whole thing take?
 24 MR. ZELMAN: In 2005?
 25 MS. PRIVETERRE: Yes.

Page 17

1 DIKLER
 2 A. Like five, ten minutes altogether.
 3 Q. Did the security officer say
 4 anything else to you?
 5 A. No.
 6 Q. Okay. What about the detective?
 7 A. Nothing, have a nice day.
 8 Q. How was the detective dressed; do
 9 you remember?
 10 A. Dark blue uniforms.
 11 Q. Who told you that this was a
 12 detective?
 13 MR. ZELMAN: Objection. You could
 14 answer. If anyone told you this was a
 15 detective.
 16 A. The security officer, he call by
 17 radio for detective, I don't remember exactly.
 18 Q. So you don't know whether or not
 19 this individual was a detective?
 20 A. Yes.
 21 MR. ZELMAN: Yes, you do? Or yes,
 22 you don't?
 23 THE WITNESS: I'm not sure it was
 24 detective.
 25 Q. Okay. With respect to the March

5 (Pages 14 to 17)

Page 18

1 DIKLER
 2 22nd '06 incident, that's what I'm going to ask
 3 you about now.
 4 A. I understand.
 5 Q. When did you arrive at 26 Federal
 6 on 3/22/06?
 7 A. After nine o'clock.
 8 Q. 9:00 a.m.?
 9 A. Yes.
 10 Q. Did you have a specific
 11 appointment?
 12 A. We book the appointment by
 13 internet.
 14 Q. Did you have to wait on the line in
 15 order to get into the building?
 16 A. Yes.
 17 Q. What happened when you stepped
 18 inside of the building?
 19 A. When I come to the building, it's
 20 like security point, so the people go through
 21 the metal detector, and the personal things go
 22 on different table through the screen machine.
 23 Q. Did you empty out your pockets to
 24 put on the conveyor belt?
 25 A. I put all my personal things in

Page 19

1 DIKLER
 2 some basket and put on the table for screening
 3 machine.
 4 Q. And what kinds of personal things
 5 did you empty out onto the basket?
 6 A. My phone, my wallet -- no, I'm
 7 sorry. Wallet still in the pocket of jacket.
 8 My jacket. Some change from my pocket, all
 9 metal things.
 10 Q. Did you have to take off your belt?
 11 A. I don't remember.
 12 Q. Okay. Did anyone at the security
 13 checkpoint say anything to you about any of the
 14 items in basket?
 15 A. Yes.
 16 Q. Okay. Do you recall who said
 17 anything to you, who was this person?
 18 A. Security officer.
 19 Q. Okay. Can you describe this
 20 individual?
 21 A. Black male, around 30, skinny.
 22 Q. Did he have any facial hair?
 23 A. Not really.
 24 Q. I'm sorry?
 25 A. Not really.

Page 20

1 DIKLER
 2 Q. Like a mustache or a beard or
 3 goatee?
 4 A. I don't remember.
 5 Q. Was he wearing glasses?
 6 A. No.
 7 Q. What was his approximate height?
 8 A. 5'8".
 9 Q. How tall are you, sir?
 10 A. 5'7".
 11 Q. What is your present weight?
 12 A. 215.
 13 Q. Okay. What was he wearing?
 14 A. Brown uniforms. Jacket, brown
 15 jackets, all browns.
 16 Q. Light brown or dark brown?
 17 A. I don't remember, brown. Dark.
 18 Dark brown.
 19 Q. What did this individual say to
 20 you?
 21 A. He ask me have I some shields in my
 22 pockets, in my jacket.
 23 Q. And what did you say in response?
 24 A. Yes.
 25 Q. What did he do or say after that?

Page 21

1 DIKLER
 2 A. He called to federal security
 3 office in the same building.
 4 Q. How did he call; did he use a radio
 5 or did he call out?
 6 A. By radio.
 7 Q. Did he say anything to you before
 8 calling on the radio?
 9 A. Wait aside.
 10 Q. So you had to step aside?
 11 A. Yes.
 12 Q. Okay. What about your wife?
 13 A. She stay with me.
 14 Q. So had she gone through already or
 15 was she behind you in the line?
 16 A. We was in different lines because
 17 the one line to the building and after that
 18 they divide for a few lines on different
 19 checkpoints.
 20 Q. Okay. Was she present when you
 21 were emptying out your items into the basket?
 22 A. I'm sorry?
 23 Q. She was not near you as you emptied
 24 out your items into the basket?
 25 A. I don't remember.

6 (Pages 18 to 21)

Page 22

1 DIKLER
 2 Q. Was she standing near you when the
 3 security officer addressed you about the
 4 shield?
 5 A. Can you repeat, please.
 6 MS. PRIVETERRE: Can you repeat
 7 that for him.
 8 (Whereupon, the referred to
 9 question and answer was read back by the
 10 Reporter.)
 11 A. She was not so far. I don't
 12 remember exactly but.
 13 Q. Could you approximate how far she
 14 was standing from you?
 15 A. Few feet.
 16 Q. Do you recall what the security
 17 officer said over the radio?
 18 A. I don't remember.
 19 Q. Okay. How long did you wait before
 20 someone responded?
 21 A. Very short.
 22 Q. What is very short?
 23 A. One minute, probably two minutes.
 24 Q. Did someone come in response?
 25 A. Yes.

Page 23

1 DIKLER
 2 Q. Okay. And who came?
 3 A. White male.
 4 Q. About how old?
 5 A. My age, around 45.
 6 Q. Height and build?
 7 A. I'm sorry?
 8 Q. What was his height and build?
 9 A. Approximately like me, little bit
 10 higher. Around six feet.
 11 Q. How much did you weigh at the time
 12 of this incident, 3/22/06?
 13 A. What do you mean?
 14 Q. How much did you weigh at the time
 15 of this incident?
 16 A. 190, 195.
 17 Q. Did this individual say anything to
 18 you?
 19 A. He check my ID, he took my ID, he
 20 took my driver license and he took all my
 21 wallet.
 22 Q. Well, was your ID and your driver's
 23 license inside of your wallet?
 24 A. Yes.
 25 Q. Did this white male remove the

Page 24

1 DIKLER
 2 wallet from the basket or was he handed the
 3 wallet?
 4 A. No, the wallet was on security
 5 officer, so security officer give my wallet to
 6 federal security detective.
 7 Q. How do you know it was federal
 8 security?
 9 A. He got chevron on his shirt.
 10 Q. What color was his uniform?
 11 A. Dark blue.
 12 Q. Was it a dark blue jacket?
 13 A. This was dark blue shirt and pants.
 14 It was complete uniform.
 15 Q. Did he have any facial hair?
 16 A. It was a little bit big face, white
 17 male.
 18 Q. Did he have any mustache, any beard
 19 or goatee?
 20 A. I don't remember now.
 21 Q. Was he wearing glasses?
 22 A. No.
 23 Q. What color was his hair?
 24 A. I don't remember.
 25 Q. And did you see this individual

Page 25

1 DIKLER
 2 take your ID out of your wallet and take your
 3 driver's license out of your wallet?
 4 A. He take out all papers from my
 5 wallet, he give me back my credit cards and he
 6 left with him all my ID.
 7 Q. Did he ask you any questions about
 8 what he removed from the wallet?
 9 A. I don't understand.
 10 Q. Did he ask you questions about the
 11 items that he took from your wallet?
 12 A. Only about the badge.
 13 Q. What did he ask you about the
 14 badge?
 15 A. Why I got it.
 16 Q. What kind of badge was it?
 17 A. It's the badge.
 18 MR. ZELMAN: Objection to form.
 19 You can answer.
 20 A. Gold, the gold color, the emblem of
 21 City of New York on the top. The New York City
 22 Transit Authority words, badge number, my
 23 personal badge number and title operator on the
 24 bottom, that's it.
 25 Q. Was this a badge issued by the MTA?

7 (Pages 22 to 25)

Page 26

1 DIKLER
2 A. I make order for this badge in my
3 depot.
4 Q. That's not my question. Was this
5 badge issued by the MTA?
6 MR. ZELMAN: Objection. You can
7 answer. If you understand.
8 A. I understand the question. I
9 bought this badge on my depot property from I
10 think official vendor.
11 Q. Do you understand what I'm asking?
12 Did the MTA issue you this badge? It's a yes
13 or a no.
14 MR. ZELMAN: Objection.
15 A. I don't know.
16 Q. You don't know if the MTA issued
17 you this badge?
18 MR. ZELMAN: Objection.
19 A. I'm not sure it's MTA but I buy, I
20 bought this badge on my depot, the guy who sell
21 the different MTA stuff is all MTA logos, MTA,
22 like hats, jackets, T-shirts, wallets. The
23 letter cases, letter, what's that? For badges,
24 shoulder badges, and that's it.
25 Q. Where is the human resources

Page 27

1 DIKLER
2 department for the MTA; do you know?
3 A. Manhattan. I was hired on the job
4 in Brooklyn.
5 MR. ZELMAN: She's not asking where
6 you're hired, she's asking where is the
7 human resources department, if you know.
8 A. I don't know.
9 Q. You said you were hired in
10 Brooklyn, is that the Livingston Street
11 location?
12 A. Yes.
13 Q. And when you were hired at the
14 Livingston Street location, were you given
15 anything from the MTA at that time?
16 A. Yes.
17 Q. What items were you given?
18 A. The pass, another name work ID and
19 the shoulder badge.
20 Q. Could you describe for me the
21 shoulder badge?
22 A. The badge, it's like MTA logo. My
23 personal badge number and the title operator.
24 Q. Anything else that you were given
25 at that time?

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1 DIKLER
2 A. The key from wheelchair lift,
3 that's it.
4 Q. With respect to the other badge
5 that you described, gold color with the emblem
6 of the City of New York and New York City
7 Transit Authority badge number and title, did
8 you get that badge at the Livingston Street
9 location?
10 A. No.
11 Q. Were you instructed by anyone at
12 the Livingston Street location to buy another
13 badge?
14 A. No.
15 Q. Did you require another badge in
16 order to perform your duties as a bus operator?
17 A. I don't understand the question.
18 MS. PRIVETERRE: Can you repeat
19 that.
20 (Whereupon, the referred to
21 question was read back by the Reporter.)
22 A. No.
23 Q. When did you get the second badge?
24 A. Spring 2005.
25 Q. You don't recall the month?

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1 DIKLER
2 A. I don't remember exactly.
3 Q. And from whom did you purchase this
4 other badge?
5 A. The vendor.
6 Q. What was the vendor's name?
7 A. I don't know.
8 Q. Where is the vendor's office
9 located?
10 A. I don't know.
11 Q. Where did you first meet this
12 vendor?
13 A. He sell different stuff in my depot
14 once per two weeks for a long time. Every two
15 weeks it was like tables inside the depot.
16 Q. Which depot is this?
17 A. Flatbush depot.
18 Q. What's the vendor's name?
19 A. I don't know.
20 Q. When is the last time you met with
21 the vendor?
22 A. I don't know.
23 Q. Did you purchase anything else from
24 the vendor?
25 A. Some souvenir stuff.

8 (Pages 26 to 29)

Page 30

1 DIKLER
 2 Q. What kind of souvenirs?
 3 A. Like small toys, buses, because --
 4 I'm sorry, that's it.
 5 Q. Anything else?
 6 A. Some T-shirts, MTA logos.
 7 Q. You said that the vendor sold the
 8 items at the depot, was he inside of the
 9 building or outside of the building or
 10 somewhere else?
 11 A. Inside the building in the swing
 12 room.
 13 Q. I'm sorry?
 14 A. Swing room, restroom for the bus
 15 operator, swing room.
 16 Q. The swing room?
 17 A. Yes.
 18 Q. Okay. Is that like a recreational
 19 room?
 20 A. Yes, it's a TV, it's pool tables,
 21 it's diner's tables.
 22 Q. Do you have any invoices for any
 23 bills of sale for that badge that you purchased
 24 from the vendor?
 25 A. I have one but I don't know where

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1 DIKLER
 2 it is.
 3 MS. PRIVETERRE: Okay. I'm going
 4 to call for production and I will
 5 memorialize this demand in writing.
 6 MR. SILVERMAN: I join in that
 7 request, I'm going to memorialize it as
 8 well.
 9 MR. ZELMAN: He said he doesn't
 10 know where it is.
 11 MS. PRIVETERRE: Well, he can think
 12 about it when he leaves today.
 13 MR. ZELMAN: Are you sure you have
 14 it or you don't know?
 15 THE WITNESS: This badge, you can't
 16 just buy it, you make an order.
 17 MR. ZELMAN: Wait for the question.
 18 Let's move on.
 19 Q. How did you place the order?
 20 A. I place the order from this vendor.
 21 Q. Did he show you any books or
 22 magazines or catalogs?
 23 A. He got some samples.
 24 Q. He showed you a sample?
 25 A. Yes, this was different form,

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1 DIKLER
 2 different size.
 3 Q. Do you recall whether or not the
 4 badge you chose had a specific catalog number
 5 or style, name or number?
 6 A. No, I just point my finger on that.
 7 Q. Why did you choose the badge that
 8 you chose?
 9 A. Because it was like part of the
 10 wallet inside the wallet, you can't take it out
 11 because it takes long time because it's already
 12 part of the wallet so it's always with you and
 13 you not supposed to be special like wear some
 14 badge, it just I like the style and it was
 15 comfortable for me.
 16 Q. So the badge came with inside of a
 17 wallet?
 18 A. Yes. You buy the wallet, you make
 19 order for wallet.
 20 MR. ZELMAN: The question is, did
 21 the badge come inside the wallet?
 22 A. Yes.
 23 Q. Did you have to purchase or make
 24 two separate orders, one for the badge and one
 25 for the wallet?

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1 DIKLER
 2 A. No.
 3 Q. So how did the vendor know which
 4 wallet to put with the badge?
 5 MR. ZELMAN: Objection. You can
 6 answer.
 7 A. He got the samples. I show him
 8 exactly what I want.
 9 Q. So you pointed out what badge and
 10 what wallet?
 11 A. No, you can't put separate wallet
 12 and badge. It's like one piece.
 13 Q. Okay. What color was the wallet?
 14 A. Black.
 15 Q. Was this leather?
 16 A. Yes.
 17 Q. How much did it cost you?
 18 A. \$40 when you make an order, and six
 19 weeks when you pick it up the stuff, another
 20 \$45.
 21 Q. Was the badge gold plated?
 22 A. Yes.
 23 Q. Do you have the badge with you
 24 today?
 25 A. When I was arrested, the badge --

9 (Pages 30 to 33)

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1 DIKLER
 2 MR. ZELMAN: Do you have the badge
 3 with you today?
 4 THE WITNESS: No.
 5 Q. Have you purchased another badge?
 6 A. No.
 7 Q. Do you still have the badge that
 8 was issued to you by the MTA?
 9 A. Yes.
 10 Q. And did you wear that badge when
 11 you were working as a bus operator?
 12 A. Yes.
 13 Q. Did you believe at the time that
 14 you were purchasing this second badge that this
 15 was being issued, this badge was being issued
 16 by the MTA?
 17 MR. ZELMAN: Objection. You can
 18 answer.
 19 A. I don't know.
 20 Q. You didn't?
 21 A. I did know.
 22 Q. You did know?
 23 A. I did know.
 24 Q. You did know what?
 25 MR. ZELMAN: Objection. You didn't

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1 DIKLER
 2 know? Or you did know?
 3 A. I did know -- I didn't know, I
 4 didn't know. When I bought this badge, I
 5 didn't know this is from MTA or not.
 6 Q. Did you ask the vendor?
 7 A. No.
 8 Q. Why not?
 9 MR. ZELMAN: Objection.
 10 A. I was sure he sell the legal stuff
 11 inside the depot.
 12 Q. Did he make that representation to
 13 you?
 14 A. I'm sorry?
 15 Q. Did he tell that to you, that this
 16 was legal?
 17 A. I don't remember.
 18 Q. Did he, did the vendor tell you
 19 that what he was selling was issued by the MTA?
 20 A. He didn't.
 21 Q. Did you know any other bus operator
 22 that had purchased from him?
 23 A. Yes.
 24 Q. Any friends of yours?
 25 A. It's not my friends but bus

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1 DIKLER
 2 operators.
 3 Q. Okay. Would you carry the gold
 4 plated badge that you purchased from the
 5 vendor, would you carry that while you were
 6 working as a bus operator?
 7 A. It was inside my wallet. It's
 8 always with me.
 9 Q. And what was your purpose for
 10 purchasing this second badge?
 11 A. It was actually two reasons.
 12 First, almost all bus operators which I know,
 13 they got these badges, and second one, when you
 14 on work, I mean in uniform, you got the
 15 shoulder badges, it's like proof of your work,
 16 but when you civil clothing, out of a job, this
 17 is like proof of your job.
 18 Q. Who told you that this second badge
 19 was proof of your employment?
 20 MR. ZELMAN: Objection.
 21 A. Nobody tell me that.
 22 Q. Did you ever use this second badge
 23 for that purpose, to prove that you worked as a
 24 bus operator?
 25 A. No.

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1 DIKLER
 2 Q. Did you ever speak to anyone at
 3 Livingston Street about purchasing this second
 4 badge?
 5 A. No.
 6 Q. Have you subsequently purchased
 7 anything from that vendor?
 8 A. From this vendor?
 9 Q. Yes, other than the souvenirs and
 10 the badge.
 11 A. Yes, from this and from another
 12 vendor too.
 13 Q. From the same company, do you know?
 14 A. I don't know. They was on
 15 different days.
 16 Q. When is the last time you made such
 17 a purchase from a vendor?
 18 MR. ZELMAN: Objection.
 19 A. I don't remember.
 20 Q. You said that part of your reason
 21 was that all bus operators have this badge?
 22 A. Almost everyone that I know.
 23 Q. How many people would you say that
 24 you know that have purchased such a badge?
 25 A. I don't know.

10 (Pages 34 to 37)

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1 DIKLER
 2 Q. More than five?
 3 A. Excuse me?
 4 Q. More than five?
 5 A. Yes.
 6 Q. More than ten?
 7 A. I am not sure.
 8 Q. Had you any occasion to show this
 9 badge to anyone else?
 10 A. No.
 11 MR. ZELMAN: Objection.
 12 Q. Did you show it to friends?
 13 A. Sometimes. It's like souvenir.
 14 Q. Why do you say it's like a
 15 souvenir?
 16 A. Because when I bought this badge,
 17 it was souvenir.
 18 Q. Why did you require a souvenir if
 19 you already had an MTA issued badge?
 20 MR. ZELMAN: Objection.
 21 A. Like I said before, two reasons.
 22 First, just because almost everyone got this
 23 badge. And second one, just like it show you
 24 work for MTA.
 25 Q. You were issued an ID from the MTA,

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1 DIKLER
 2 correct?
 3 A. Yes.
 4 MR. ZELMAN: Objection.
 5 Q. Didn't that prove that you worked
 6 for the MTA?
 7 A. It's proof.
 8 Q. What else did you carry in this
 9 wallet that had the MTA badge that you
 10 purchased?
 11 A. Credit cards, ID, some money.
 12 Q. Was this the only wallet that you
 13 were carrying?
 14 A. Yes.
 15 Q. Other than friends, did you show
 16 the badge to anyone else?
 17 A. No.
 18 Q. Do you recall the name of the
 19 second vendor that you purchased from?
 20 A. I don't know.
 21 Q. Can you approximate how many
 22 different vendors you have purchased items
 23 from?
 24 MR. ZELMAN: Objection.
 25 A. Two.

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1 DIKLER
 2 Q. Just those two?
 3 A. In my depot, I know about two, I
 4 saw two different vendors that sell the same
 5 stuff.
 6 Q. Did you ever visit any other depots
 7 to make other purchases?
 8 A. No.
 9 Q. You wear a uniform as a bus
 10 operator, correct?
 11 A. Yes.
 12 Q. And where do you obtain your
 13 uniforms?
 14 A. I'm sorry?
 15 Q. Where do you get your uniforms
 16 from?
 17 A. From MTA.
 18 Q. Would that include your jacket,
 19 your pants?
 20 A. Everything.
 21 Q. Your shirts?
 22 A. Everything.
 23 Q. And this is the MTA uniform, the
 24 bus operator uniform?
 25 A. Yes.

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1 DIKLER
 2 Q. Does the jacket have the insignia
 3 or any words that indicate MTA?
 4 A. MTA logo on the sleeve, that's it.
 5 Q. Have you ever purchased a uniform
 6 from a vendor?
 7 A. No.
 8 Q. Did either of these vendors that
 9 you purchased items from, did they tell you
 10 that they worked with the MTA?
 11 A. No.
 12 Q. Did they tell you that they had
 13 been authorized to sell items by the MTA?
 14 MR. ZELMAN: Objection.
 15 A. I don't know, but they sell the
 16 stuff inside the MTA depot.
 17 Q. Was it your understanding that the
 18 second badge was an official MTA shield?
 19 A. Now I know that.
 20 Q. Know that what?
 21 A. Now, you know, it's unofficial.
 22 Q. It's an official?
 23 A. Now I know that.
 24 MR. ZELMAN: Unofficial.
 25 Q. When did you first become aware

11 (Pages 38 to 41)

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1 DIKLER
2 that it's an unofficial badge?
3 A. When I was arrested.
4 Q. Prior to being arrested, you
5 thought that it was an official badge?
6 A. Yes.
7 Q. Why?
8 A. I'm sorry, can you repeat the
9 question.
10 (Whereupon, the referred to
11 question was read back by the Reporter.)
12 A. I'm sorry, can you rephrase this
13 question?
14 Q. Sure. What was the basis of your
15 belief that the second badge was an official
16 MTA badge?
17 MR. ZELMAN: Objection.
18 A. Police detective tell me this is a
19 fake badge, police detective tell me.
20 Q. When were you told this by a police
21 detective?
22 A. When they arrest me.
23 Q. What did he say?
24 A. They say you have fake badge.
25 MR. ZELMAN: Let's take five

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1 DIKLER
2 minutes before you ask the next
3 question.
4 MS. PRIVETERRE: I don't want you
5 coaching him because you didn't like how
6 that came out.
7 MR. ZELMAN: There's no question
8 pending.
9 MS. PRIVETERRE: I am going to
10 rephrase the question, it's not
11 complete, allow me the courtesy of
12 rephrasing the question because I think
13 there is some misunderstanding.
14 MR. ZELMAN: There is obviously.
15 MS. PRIVETERRE: So I want to clean
16 it up.
17 MR. ZELMAN: How many questions
18 before I can go to the bathroom?
19 MS. PRIVETERRE: Let me clean this
20 up and you can take your break.
21 Q. Mr. Dikler, I'm asking, it's your
22 testimony that following your arrest you first
23 became aware that the second badge was not an
24 official MTA badge?
25 A. I don't understand the question.

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1 DIKLER
2 MR. ZELMAN: Objection.
3 A. I don't understand the question.
4 Q. Is it your statement that following
5 your arrest, that's when you first were
6 informed that the second badge was not an
7 official MTA badge?
8 MR. ZELMAN: Objection.
9 Q. Is that correct?
10 A. It's first time when I was
11 arrested, it's first time when I got some
12 knowledge about it's illegal badge.
13 Q. Okay.
14 A. Before, I didn't know that.
15 Q. And my question was, what was the
16 basis for your understanding prior to your
17 arrest? What was the basis for your
18 understanding that you had an official MTA
19 badge?
20 MR. ZELMAN: Objection.
21 Q. And I'm talking about the one you
22 purchased from the vendor.
23 MR. ZELMAN: Objection.
24 A. When I bought it from the vendor, I
25 didn't know it's unofficial MTA badge.

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1 DIKLER
2 MR. ZELMAN: That's your answer.
3 Can I take a break now please?
4 Let's go outside.
5 (Whereupon, a short recess was
6 taken.)
7 MR. ZELMAN: I think it's clear he
8 didn't understand the question.
9 Q. Why did you believe that the second
10 badge was official?
11 MR. ZELMAN: Objection.
12 A. I don't know.
13 Q. What other items did the vendor
14 sell or either vendor that you dealt with?
15 MR. ZELMAN: Objection.
16 A. Either vendor, different, some
17 jewelry with MTA logo, hair pieces, some
18 jewelry, bracelets with the buses.
19 Q. Did all of the items have the MTA
20 or an MTA logo?
21 A. You have to make order for this
22 jewelry because they put your pass number.
23 Q. And in the order, do you also
24 specify the company?
25 A. I don't remember.

12 (Pages 42 to 45)

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1 DIKLER

2 Q. Well, when you were ordering the
3 second badge, did you have to specify that you
4 wanted MTA on the badge?

5 A. It's already was some samples.

6 Q. What kind of symbols?

7 A. Samples of the badge, so you just
8 point your finger, I want that.9 Q. The sample that you pointed to, did
10 that already have the MTA, the words MTA
11 spelled out?

12 A. New York City Transit Authority.

13 Q. Yes, did it have that?

14 A. Yes.

15 Q. And did you see that on the other
16 items that the vendors were selling?

17 MR. ZELMAN: Objection.

18 A. Yes.

19 MS. PRIVETERRE: Let me mark that
20 as an exhibit.21 (Whereupon, the aforementioned
22 Documents were marked as Defendant's
23 Exhibit A-B for identification as of
24 this date by the Reporter.)

25 Q. All right. Mr. Dikler, I'm going

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1 DIKLER

2 to show you what's been marked as Defendant's
3 Exhibit A and let you take a look at this
4 (indicating).

5 A. (Indicating).

6 Q. Do you recognize what's depicted?

7 A. Yes.

8 Q. And could you describe for the
9 record what you see?10 A. This the wallet completely open, my
11 driver license, the badge inside the wallet and
12 my work pass.13 Q. Okay. And though this is a black
14 and white copy, the badge that's in the middle
15 of the two cards you're saying is gold plated?16 A. It's gold plated and blue and white
17 New York City emblems on the center.18 MR. SILVERMAN: Is this the badge
19 that was taken from you on the date of
20 this incident?

21 THE WITNESS: I'm sorry?

22 MR. SILVERMAN: Do you believe this
23 to be a copy of the badge that was taken
24 from you on the day of the incident?

25 THE WITNESS: I don't know.

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1 DIKLER

2 Q. Did the vendor give you any
3 information about this style of this badge?

4 A. No.

5 Q. When you looked in the catalog or
6 the book and pointed out this badge --

7 A. This was not catalog.

8 MR. ZELMAN: You have to let her
9 finish the question.10 Q. What kind of then document did you
11 point at to indicate that you wanted that
12 badge?

13 A. It was the badge.

14 Q. Oh, the badge itself, so it was a
15 sample?16 A. It was a sample. Different wallets
17 and different badges.18 Q. Were all of the samples that the
19 vendor showed you in this style?

20 A. I don't remember.

21 Q. And why is it that you chose this
22 particular style?

23 MR. ZELMAN: Objection.

24 A. I like it.

25 Q. Okay. Had you seen this styling

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1 DIKLER

2 anywhere else?

3 A. No.

4 Q. Do you know this style to be
5 referred to as the Starburst, is that a name
6 that's familiar to you?

7 A. No.

8 Q. Did the vendor describe the badge
9 in that manner?

10 A. No.

11 Q. So the sample, as you first saw it,
12 had this emblem?

13 A. Yes.

14 Q. With the exception of the badge
15 number?

16 A. It was different number.

17 Q. Okay. And it was your
18 understanding that you could purchase the badge
19 and then have your number, your shield number
20 inserted; is that correct?21 A. When you put the order, he check
22 your pass, he check your badge number from MTA
23 and he receive your order.

24 Q. Did the vendor sell handcuffs?

25 A. I'm sorry?

13 (Pages 46 to 49)

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1 DIKLER
 2 Q. Handcuffs.
 3 A. No.
 4 Q. Did the vendor sell any guns?
 5 A. No.
 6 Q. Did the vendors sell any batons?
 7 A. No.
 8 Q. Did the vendors sell any items that
 9 did not say New York City Transit Authority?
 10 A. Yes.
 11 Q. And what kinds of items were those?
 12 A. It was too many items, too much
 13 different items, the watches, it's like two
 14 tables like that, different stuff. Not just
 15 MTA logo stuff.
 16 Q. Did you see any other agency logo
 17 on any of these other items?
 18 A. No.
 19 Q. I'm going to show you what's been
 20 marked as Defendant's Exhibit B, I'll let you
 21 take a look at that (indicating).
 22 A. (Indicating) This is my work badge.
 23 Q. Okay. Is that the badge that was
 24 issued to you at the Livingston Street
 25 location?

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1 DIKLER
 2 A. Yes.
 3 Q. And is this the badge that you wear
 4 when you are on the job as a bus operator?
 5 A. Yes.
 6 Q. Did you have the badge that's
 7 depicted in Defendant's Exhibit B on the date
 8 of the incident, March 22nd 2006?
 9 A. I don't have this badge with me.
 10 Q. And why were you not wearing that
 11 or carrying that badge?
 12 A. I wear this badge when I wear
 13 uniform only.
 14 Q. So you only wear what's depicted in
 15 Defendant's Exhibit B when you're on the job?
 16 A. Correct.
 17 Q. Okay. Can you give me a physical
 18 description of the second vendor that you say
 19 you purchased from?
 20 A. Old man, between 60 and 70. My
 21 height, and slim, gray hair, like haircut,
 22 nice, glasses, gold glasses. Always white
 23 shirt and dark pants, that's it.
 24 Q. Did the second vendor have anything
 25 identifying himself as an MTA employee?

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1 DIKLER
 2 A. Both of them, they got MTA passes.
 3 Q. What kind of MTA pass?
 4 A. Regular like I got, the same MTA
 5 pass (indicating).
 6 Q. A bus operator pass?
 7 A. I don't know. MTA pass.
 8 Q. How did you know it was an MTA
 9 pass?
 10 A. By form, by color. And when you
 11 enter the MTA property, you must wear the MTA
 12 pass on your chest.
 13 Q. Describe for me the form and the
 14 color, is it the same that's depicted in
 15 Defendant's Exhibit --
 16 A. Absolutely the same.
 17 Q. What color?
 18 A. The red color for men and blue
 19 color for women.
 20 Q. When you say they were wearing it,
 21 is this a pass that you can affix to your shirt
 22 or your jacket?
 23 A. It doesn't matter. Usually it's
 24 like on some (indicating).
 25 MR. ZELMAN: Can you affix it to

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1 DIKLER
 2 your shirt or your jacket? That's the
 3 question.
 4 A. If you got some clips, yes.
 5 Q. Is it sometimes worn in a card
 6 holder around the neck?
 7 A. Yes.
 8 Q. Do you have any invoices from the
 9 second vendor?
 10 A. No.
 11 Q. Do you have any business cards from
 12 either vendor?
 13 A. No.
 14 Q. Did you purchase any other items
 15 from either vendor that were related to your
 16 work as a bus operator?
 17 A. No.
 18 Q. Stepping back to what happened at
 19 26 Federal. The white male security officer,
 20 after checking your ID and your driver's
 21 license, did he say anything to you?
 22 A. He let me go to the appointment
 23 with my wife. But he tell me I have to come
 24 back to security office when appointment will
 25 be finished.

14 (Pages 50 to 53)

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1 DIKLER
 2 Q. How long was the appointment?
 3 A. I don't remember, 30 minutes.
 4 Q. And did you return?
 5 A. Sure.
 6 Q. And where did you go?
 7 A. Excuse me?
 8 Q. Where did you go?
 9 A. On the first floor, federal
 10 security service office.
 11 Q. Did you see the same security
 12 officer?
 13 A. Yes, I knock the door and the same
 14 officer tell me wait before the door.
 15 Q. I'm sorry, wait for?
 16 A. Wait outside. Wait outside the
 17 office.
 18 Q. How long did you wait?
 19 A. Around one and a half hours, about
 20 two hours.
 21 Q. And what happened during those two
 22 hours?
 23 A. My wife, she leave me because she
 24 supposed to go to the kids to home. I ask
 25 officer how long I supposed to wait and he tell

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1 DIKLER
 2 me he try connect to the MTA office for get
 3 some information about me and about this badge.
 4 Q. Did he say anything else?
 5 A. No.
 6 Q. Where did you wait during the two
 7 hours, were you inside of the security office?
 8 A. No, it was two chairs just right
 9 behind the door outside the office.
 10 Q. Approximately what time was it when
 11 you were first told to sit outside?
 12 A. Around maybe 10:30, 11:00, I don't
 13 remember.
 14 Q. At this point, had any of your
 15 items been returned to you?
 16 A. Only credit cards.
 17 Q. What about the cell phone?
 18 A. It was with me. I carry.
 19 Q. After about two hours, did the
 20 security officer come outside?
 21 A. He call me to the room.
 22 Q. He called you inside?
 23 A. Right.
 24 Q. What did he say to you?
 25 A. Not him. The detective. Detective

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1 DIKLER
 2 tell me I got illegal, fake badge and they're
 3 going to arrest me.
 4 Q. How do you know this individual was
 5 a detective?
 6 A. He identify himself. The call the
 7 name and tell me the detective from 5th
 8 Precinct.
 9 Q. Okay. So you were introduced to
 10 this person by the security officer?
 11 A. I don't remember because I was
 12 shocked.
 13 Q. Did you see any sort of badge on
 14 this individual that you say was a detective?
 15 A. Yes, they carry some badges, I
 16 don't remember but they got something.
 17 Q. I'm sorry?
 18 A. They have some badges.
 19 Q. Do you remember seeing though a
 20 badge on this person you're calling a
 21 detective?
 22 A. No, I don't remember.
 23 Q. Did he show you any badge?
 24 A. I remember one officer got badge on
 25 the neck and another on the belt, something

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1 DIKLER
 2 like that. But I don't remember exactly.
 3 Q. Were these other officers federal
 4 security officers or New York City police
 5 department officers?
 6 A. It was federal security officer and
 7 another three men. Two detectives from 5th
 8 Precinct and one more detective, I don't know.
 9 Q. You don't know if it was a federal
 10 or NYPD?
 11 A. I don't know who the third man. He
 12 didn't introduce himself.
 13 Q. But my question is, with respect to
 14 the two men that you identified as detectives,
 15 did either of them show you any sort of shield
 16 or badge?
 17 A. I'm sorry, can you repeat the
 18 question.
 19 Q. The two people that you identify as
 20 having been detectives, did either of these
 21 people show you any sort of badge or shield?
 22 A. Yes, they show me some badge.
 23 Q. Can you describe for me the badge?
 24 A. No, I can't.
 25 Q. Do you recall what color it was?

15 (Pages 54 to 57)

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1 DIKLER
 2 A. I don't remember nothing.
 3 Q. Do you recall what shape?
 4 A. I don't, no, it was some police
 5 badges, I don't know.
 6 Q. Had you seen that type of police
 7 badge before?
 8 A. Just on regular police officer in
 9 the streets, like patrol police got badge on
 10 their jackets, that's it.
 11 Q. What about a detective's badge?
 12 A. I never see that before.
 13 Q. Before March 22nd 2006?
 14 A. Yes, I never speak with detective
 15 before.
 16 Q. Did the badge that you saw, the
 17 detective's badges that you saw on March 22nd
 18 2006 resemble what's depicted in Defendant's
 19 Exhibit A?
 20 A. I don't remember.
 21 Q. Had anyone ever informed you that
 22 what's depicted in Defendant's Exhibit A, the
 23 shield that is in the middle of the two cards
 24 that have been also copied, did anyone ever
 25 tell you that this badge resembles a detective

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1 DIKLER
 2 shield?
 3 A. Nobody.
 4 Q. When you showed this to friends,
 5 did they ever mention that it had a resemblance
 6 to a detective shield?
 7 A. No.
 8 Q. How many friends would you say you
 9 showed that shield to?
 10 A. Maybe two.
 11 Q. Are they also bus operators?
 12 A. One bus operator, another work for
 13 subway, MTA.
 14 Q. Did you show this to your wife?
 15 A. Yes.
 16 Q. Did you show this badge to any of
 17 your relatives?
 18 A. No.
 19 Q. Did the detectives speak to you
 20 after you were introduced?
 21 A. He just call me I'm arrested.
 22 Q. Did they tell you why you were
 23 being arrested?
 24 A. About I carry illegal, fake badge.
 25 Q. Did you say anything in response?

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1 DIKLER
 2 A. I don't remember, I don't remember
 3 this day.
 4 Q. Can you give me a physical
 5 description of either detective?
 6 A. One detective exactly like me, just
 7 two white guys, men, one, too, my age.
 8 Another, a little bit younger. One, the same
 9 like me. Another, the fat guy. That's it.
 10 Q. What about the height?
 11 A. I don't remember.
 12 Q. Taller than you or shorter than
 13 you?
 14 A. One of them, probably the same like
 15 me. Another, a little bit higher.
 16 Q. Hair color, do you remember?
 17 A. No.
 18 Q. Were they in uniform or plain
 19 clothes?
 20 A. Plain clothes.
 21 Q. Did either of them have any facial
 22 hair; mustache, goatee, beard?
 23 A. I don't remember.
 24 Q. Did either of them wear glasses?
 25 A. I don't remember.

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1 DIKLER
 2 Q. What did the detectives do after
 3 you were informed that you were placed under
 4 arrest?
 5 A. Handcuff me.
 6 Q. Anything else?
 7 A. That's it.
 8 Q. Were you removed from 26 Federal?
 9 A. Yes.
 10 Q. How were you removed? Were you
 11 driven in a car or did you walk somewhere?
 12 A. We walk so far because detectives'
 13 car was parked so far from federal building,
 14 Federal Plaza, 26, through the building,
 15 through the street, all the way out.
 16 Q. Did you recall what kind of vehicle
 17 it was?
 18 A. Chrysler or Dodge, black, that's
 19 it.
 20 Q. So this was not a marked blue and
 21 white NYPD patrol car?
 22 A. No.
 23 Q. Where were you placed, in the front
 24 or the back seat?
 25 A. On the back seat.

16 (Pages 58 to 61)

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1 DIKLER
 2 Q. Where did the second detective sit?
 3 Passenger?
 4 A. Both of them in the front seat,
 5 driver and passenger.
 6 Q. Did you say anything to the
 7 detectives as you were walking out of 26
 8 Federal?
 9 A. No, I just -- I look on my legs, I
 10 just -- no.
 11 Q. Did you make any phone calls before
 12 you left 26 Federal?
 13 A. No. They took my phone when I was
 14 arrested.
 15 Q. Did you say anything to the
 16 detectives while you were in the car?
 17 A. I don't remember.
 18 Q. Did they say anything to you?
 19 A. I don't remember.
 20 Q. How long was the drive?
 21 A. Short.
 22 Q. What happened after you got to the
 23 precinct?
 24 A. Detective just put me on cell and
 25 uncuff me, take out my belt, take out my laces,

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1 DIKLER
 2 that's it.
 3 Q. Did he say anything to you?
 4 A. Yes, we got some conversation. She
 5 let me call to my wife.
 6 Q. This was a female officer?
 7 A. Two male, two male officers.
 8 Q. Okay.
 9 A. And they let me make a call to my
 10 wife.
 11 Q. What did you tell your wife?
 12 A. True.
 13 Q. I'm sorry?
 14 A. True, I'm arrested.
 15 Q. Did you tell her why?
 16 A. Yes.
 17 Q. Okay. What did she say?
 18 MR. ZELMAN: Objection, that's
 19 spousal privilege, don't answer.
 20 MS. PRIVETERRE: I believe only the
 21 wife could assert that privilege, right?
 22 MR. ZELMAN: No. Privilege.
 23 MS. PRIVETERRE: Mark that for a
 24 ruling.
 25 Q. Did the detective say anything else

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1 DIKLER
 2 to you?
 3 A. They tell me they going to bring me
 4 to the jail to Central Booking.
 5 Q. How long were you at the precinct?
 6 A. I'm sorry?
 7 Q. How long were you at the precinct?
 8 A. You mean, oh, 5th Precinct?
 9 Q. Yes.
 10 A. Two hours, maybe a little bit
 11 longer, I don't remember.
 12 Q. Did the same detective take you to
 13 Central Booking?
 14 A. Yes.
 15 Q. And how long were you at Central
 16 Booking?
 17 A. Till 11:00, 11:30 next day, 11:30
 18 a.m.
 19 Q. Were you brought before a judge?
 20 A. I'm sorry?
 21 Q. Were you taken to see a judge?
 22 A. Yes, next day about 11:30, I saw
 23 the judge.
 24 Q. And what, if anything, did the
 25 judge say to you?

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1 DIKLER
 2 A. Judge said me, see you June 15.
 3 Q. Were you told then anything else
 4 about the charges against you?
 5 A. No.
 6 Q. Did you say anything to the judge?
 7 A. No.
 8 Q. Did you enter any plea?
 9 A. No.
 10 Q. Or any explanation?
 11 A. No.
 12 Q. So your return date was June?
 13 A. June 15.
 14 Q. And did you return on June 15th
 15 2006?
 16 A. Yes.
 17 Q. What happened then?
 18 A. Case dismissed.
 19 Q. Do you know why it was dismissed?
 20 Was it something that you or your lawyer did?
 21 A. I don't know. My lawyer, I don't
 22 know why it was dismissed.
 23 Q. Did you retain a lawyer for this
 24 case?
 25 A. Yes.

17 (Pages 62 to 65)

Page 66

1 DIKLER
 2 Q. So you only made one appearance,
 3 that appearance on June 15th 2006?
 4 A. Correct.
 5 Q. Was this the first time you had
 6 been arrested?
 7 A. Yes.
 8 Q. Had you ever been arrested in the
 9 Soviet Union?
 10 A. Never in my life.
 11 Q. Do you claim any psychological
 12 injuries stemming from this incident?
 13 A. No.
 14 Q. Did you sustain any physical
 15 injury?
 16 A. I complain to my doctor about the
 17 on few days after that I start feel the kidney
 18 stone pain.
 19 Q. Had you ever suffered from kidney
 20 stones before this incident?
 21 A. I got surgery before.
 22 Q. And did you attribute this kidney
 23 stone problem to the arrest and detainment?
 24 A. I don't know.
 25 Q. Did you ask your doctor whether it

Page 67

1 DIKLER
 2 was related?
 3 A. I just complain him.
 4 Q. Well, what was your doctor's
 5 response or diagnosis?
 6 A. He tell me it could be connect to
 7 your arrest but could be not, he didn't know
 8 exactly.
 9 Q. Did he take any tests?
 10 A. No.
 11 Q. How soon after you were released
 12 did you seek consultation regarding the kidney
 13 stones?
 14 A. I was released on Wednesday and I
 15 see the doctor on Sunday.
 16 Q. Is this Dr. Weiss?
 17 A. Yes.
 18 Q. Did you have any complaints other
 19 than the kidney stones?
 20 A. No.
 21 Q. When did you have that surgery
 22 related to the kidney stones?
 23 A. 2004.
 24 Q. Do you claim any damage to your
 25 reputation because of this incident?

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1 DIKLER
 2 A. Yes.
 3 Q. What damage was done?
 4 A. I was called to general
 5 superintendent, supervision office, I was
 6 suspended from job for five days. And
 7 detective, when I was in the precinct, 5th
 8 Precinct on this day, I have to go to my job
 9 and detectives tell me call to your job about
 10 you're sick so.
 11 MR. ZELMAN: The question is, how
 12 was your representation damaged? That's
 13 the question.
 14 A. And I called my job about I'm sick.
 15 So when I show up in office, they call me liar
 16 because there was not sick, you were arrested
 17 and you call about you're sick.
 18 Q. Which detective told you to call in
 19 as a sick day?
 20 A. Both of them.
 21 Q. Did they force you to do that?
 22 MR. ZELMAN: Objection.
 23 A. I don't remember. I tell them I
 24 need to call to my job.
 25 MR. ZELMAN: The question is, did

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1 DIKLER
 2 they force you?
 3 THE WITNESS: No, just advice.
 4 Q. Why did you take their advice?
 5 A. I have to call to my job anyway
 6 about the reasons why I can't report to the
 7 job.
 8 Q. So would you have called --
 9 A. The officer told them don't tell
 10 them you're arrest, just tell them you're sick
 11 today. That's what I do.
 12 Q. Would you have called in sick
 13 regardless of what the detectives advised you?
 14 A. I called in for my job and call
 15 myself sick.
 16 Q. My question is, would you have
 17 called in sick anyway regardless of what the --
 18 A. No.
 19 Q. How would you have called it in?
 20 A. I want to call to my job and tell
 21 them true, I'm arrest, but detective tell me
 22 don't tell them you're arrest, tell them that
 23 you are sick.
 24 MR. ZELMAN: Two seconds while
 25 there's no question.

18 (Pages 66 to 69)

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1 DIKLER
 2 (Whereupon, Mr. Zelman and the
 3 Witness stepped out of the room and
 4 returned.)
 5 MS. PRIVETERRE: Can I have the
 6 last read back.
 7 (Whereupon, the referred to
 8 question and answer was read back by the
 9 Reporter.)
 10 A. They tell me you are not first who
 11 was arrest for this badge and everybody called
 12 to the sick to the job.
 13 Q. But they didn't force you to call
 14 in sick, correct?
 15 MR. ZELMAN: Objection.
 16 A. Yes.
 17 Q. Yes, they did force you?
 18 A. They give me the advice.
 19 Q. But did they force you to call in
 20 sick; yes or no?
 21 MR. ZELMAN: Objection.
 22 A. I don't know.
 23 Q. So are you changing your response?
 24 MR. ZELMAN: Objection.
 25 A. They hardly advise me.

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1 DIKLER
 2 Q. I'm sorry, they?
 3 A. Hardly advise me.
 4 MR. ZELMAN: Strongly?
 5 A. Strongly advise me, I'm sorry.
 6 Q. Did you feel forced to make the
 7 call in sick?
 8 MR. ZELMAN: Objection.
 9 A. I have to call to my job. And I
 10 want to say I'm arrest but the detective tell
 11 me don't say you're arrest, call them you're
 12 sick today.
 13 Q. And you made the decision to call
 14 in sick?
 15 A. Yes.
 16 Q. Okay. What's the name of the
 17 person who told you that you would be suspended
 18 for five days?
 19 A. Dennis Outlaw.
 20 Q. What is his title?
 21 A. General superintendent, he's the
 22 boss for Flatbush depot.
 23 Q. What specifically did he tell you
 24 was the reason for the suspension?
 25 A. I must report about my arrest on

Page 72

1 DIKLER
 2 first 24 hours and I failed because I called
 3 myself sick so I lied to MTA.
 4 Q. Did Mr. Outlaw know the reason why
 5 you were arrested?
 6 MR. ZELMAN: Objection.
 7 A. Yes.
 8 Q. Did you tell them the reason?
 9 A. Yes.
 10 Q. What did you say to him?
 11 A. (No verbal response.)
 12 Q. What did you say to Mr. Outlaw?
 13 A. I say I will be arrested because I
 14 have a fake badge.
 15 Q. Did Mr. Outlaw say anything to you
 16 in response?
 17 A. I don't remember now.
 18 Q. Did he tell you that you had broken
 19 any MTA rules with respect to the badge, the
 20 fake badge?
 21 A. I don't remember.
 22 Q. Did he give you anything in writing
 23 concerning your suspension?
 24 A. Yes, I sign some paper.
 25 Q. Do you have a copy of that?

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1 DIKLER
 2 A. Probably I got some copy.
 3 MS. PRIVETERRE: I'm going to call
 4 for production, I'll memorialize this
 5 request in writing.
 6 MR. SILVERMAN: Join in that
 7 request.
 8 Q. Did you read what you signed before
 9 you signed it?
 10 A. Yes.
 11 Q. Did the document make reference to
 12 any rules that the MTA had concerning fake
 13 badges?
 14 A. I don't remember.
 15 Q. Did you have any hearing concerning
 16 this suspension, did you have to go before
 17 any --
 18 A. Before suspension?
 19 Q. Yes, was there a hearing?
 20 A. I don't understand the question.
 21 Q. Did you have to -- well, withdrawn.
 22 Were you represented by a union?
 23 A. Yes.
 24 Q. And was the union rep with you
 25 during your meeting with Mr. Outlaw?

19 (Pages 70 to 73)

Page 74

1 DIKLER
 2 A. Yes.
 3 Q. Was anyone else present?
 4 A. No.
 5 Q. Was it your understanding that you
 6 had broken an MTA rule concerning badges?
 7 MR. ZELMAN: Objection.
 8 A. I don't remember, I don't know.
 9 Q. Did you ask during your meeting
 10 with Mr. Outlaw if you had violated any MTA
 11 rules?
 12 A. He tell me something.
 13 Q. What did he say?
 14 A. I don't remember exactly but it was
 15 some conversation about that.
 16 Q. About what?
 17 A. I broke some MTA rules.
 18 Q. Concerning fake badges?
 19 A. Yes, but.
 20 Q. Did you have any out-of-pocket
 21 expenses?
 22 A. Oh, yes.
 23 Q. How much?
 24 A. I pay around 6500 to Mr. Belleck
 25 (phonetic).

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1 DIKLER
 2 Q. Was he your attorney?
 3 A. Yes.
 4 Q. Was this your attorney appointed by
 5 a union?
 6 A. No, this is attorney hired by my
 7 wife.
 8 Q. So a private attorney?
 9 A. Yes.
 10 Q. Any other expenses?
 11 A. Five days without pay. One day
 12 without pay when I was arrested.
 13 Q. You lost a day's pay when you were
 14 arrested?
 15 A. Yes.
 16 Q. Did you have any sick time to use?
 17 A. I have sick time but because I lied
 18 them, they just suspend this day.
 19 Q. So you were charged a day?
 20 A. Right.
 21 Q. Although you had called in sick?
 22 A. Yes.
 23 Q. And how much could you approximate
 24 that you lost from six days without pay?
 25 A. I don't remember. Now I got 27,

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1 DIKLER
 2 probably on this time \$24 per hour, I don't
 3 remember exactly.
 4 Q. What's your base pay?
 5 A. I'm sorry?
 6 Q. Your yearly pay.
 7 A. It was my first three years on the
 8 job, it's increase so.
 9 Q. Well, what was it at the time of
 10 2006?
 11 A. I don't remember, I need to check
 12 my tax form.
 13 MS. PRIVETERRE: I'm going to call
 14 for production of that information and
 15 I'll memorialize it in writing.
 16 Q. What's your current base pay?
 17 A. 60,000.
 18 Q. Any other expenses?
 19 A. Well, after that, I buy some
 20 medicine like because I can't sleep, I can't
 21 sleep for weeks. What else?
 22 Q. Was this prescription medicine?
 23 A. No.
 24 Q. Over the counter?
 25 A. No, it just from pharmacy.

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1 DIKLER
 2 Q. But did a doctor prescribe this?
 3 A. No.
 4 Q. How much out of pocket did you
 5 spend on sleep medicine?
 6 A. Probably a hundred dollars
 7 altogether.
 8 Q. For what period of time?
 9 A. A few weeks.
 10 Q. A few meaning three?
 11 A. Three, four weeks because almost
 12 whole month I got problem with my sleeping.
 13 Q. Did you complain to Dr. Weiss about
 14 this?
 15 A. Yes.
 16 Q. What did he say?
 17 A. He told me you need some time,
 18 relax, something like that.
 19 Q. Any other expenses?
 20 A. No, just my reputation, I don't
 21 know how much cost.
 22 Q. Who told you that your reputation
 23 had been damaged?
 24 MR. ZELMAN: Objection to form.
 25 You can answer if you understand the

20 (Pages 74 to 77)

Page 78

DIKLER

question.

A. I mean, until I wait for June 15

from March 23rd, I didn't know how the case will be, what the significance will be. And Mr. Outlaw tell me if this case will be not dismissed, any another decision like fee or something like that, you will be fired because you guilty. Only one way when you stay on the job the case dismissed so, and I, until I wait for June 15, I was worried every day.

Plus I didn't spend the night at home, it happened first time for 15 years and my kids, they ask me. It's terrible, it's real terrible. And after that, next week, next week after I was arrested, I got vacation and I got air tickets, I have to go to Russia. And Mr. Belleck, my attorney, he tell me I can't leave the country, so I cancelled whole trip. And the last day when I still get about three hours before plane, I was Mr. Belleck's office and he called to the district attorney, in the last second they let me left the country.

So I just call again to air company, I activate my tickets again, I go from

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DIKLER

one hour per day. Every time because when I was on vacation, I didn't know when I come back to my job, I didn't know, probably I already don't have the job. It's not about the judge decision about June 15, it just about the job, when I come back, I was suspended for five days after my vacation, and after that, when I work all the time, I keep in my mind about June 15, probably I work last months. I didn't know how it's finished, the case.

Q. After you got back from Russia, your vacation in Russia, were your duties as an MTA operator curtailed or were your hours cut? Was your route changed?

A. When I come back from Russia, they suspend me for five days after my vacation, and after that, I come back on full duty.

Q. Full duty, same route?

A. Yes, nobody can take from you on the job.

MR. ZELMAN: Full duties, same route?

THE WITNESS: Yes.

Q. Other than Mr. Outlaw and your

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DIKLER

Manhattan right to JFK without my luggage.

Q. But you were able to go on your trip?

A. Yes.

Q. When was that trip?

A. This was the -- I spent ten days in Russia to my relatives.

Q. But do you recall what month?

A. It was -- I leave like this was the Monday, I remember it was Monday. This why I ask my doctor can I -- what I have to do because I got the back pain from the kidney stone and but I'm not sure I can fly at all because of the district attorney doesn't let me, so this week, it was terrible week on my wife. I never was arrested before, I never was handcuffed, I don't know how it feel. Now I know.

Q. So did you have insomnia during your trip in Russia?

A. I'm sorry?

Q. Did you experience sleeplessness during your stay in Russia?

A. First two weeks I sleep probably

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DIKLER

union rep, did you tell anyone else at the MTA about this arrest?

A. Another bus operator, they know that, they know I was arrested.

Q. How did he know or she know?

MR. ZELMAN: If you know.

A. I told somebody and somebody tell another guy, so everybody, almost everybody in depot knew I was arrested.

Q. Because you told them?

MR. ZELMAN: Objection.

A. Yes, because everybody got the same badges.

Q. Did you seek any counselling or therapy?

A. I'm sorry?

Q. Did you seek any counselling or therapy because of this incident?

A. I don't remember.

Q. Have you ever been to a psychiatrist?

A. No.

Q. Have you ever been to a psychologist?

21 (Pages 78 to 81)

Page 82

1 DIKLER
 2 A. No.
 3 Q. Have you ever been to a mental
 4 health provider?
 5 A. No.
 6 Q. Does that refresh your recollection
 7 as to whether or not you sought counselling?
 8 A. I'm sorry?
 9 Q. Repeat that?
 10 A. Can you rephrase, please.
 11 Q. You stated that you've never seen a
 12 psychiatrist, you never consulted with a
 13 psychologist, you never consulted with a mental
 14 health professional. So going back to my
 15 question, the question which you answered "I
 16 don't remember", have you sought any
 17 counselling because of this incident?
 18 A. I don't remember.
 19 Q. Were you up for a promotion at the
 20 time of this arrest?
 21 A. I'm sorry.
 22 Q. Were you in line for any promotion
 23 at the time of this arrest?
 24 A. I don't remember.
 25 Q. Were you informed by Mr. Outlaw

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1 DIKLER
 2 that you were under consideration for a
 3 promotion that might be affected because of
 4 this arrest?
 5 A. I don't remember.
 6 Q. From 3/22/06 to the present, April
 7 2nd 2008, have you been promoted in any way
 8 from a bus operator for the MTA?
 9 A. No.
 10 Q. Has your route changed since March
 11 22nd 2006?
 12 A. Every three, four months.
 13 Q. Did the changes have anything to do
 14 with your arrest?
 15 A. No.
 16 Q. In what way were you caused to feel
 17 terror because of this incident?
 18 A. I'm sorry?
 19 Q. In what way were you caused any
 20 terror, any fright?
 21 A. I don't understand the question,
 22 I'm sorry.
 23 Q. Mr. Dikler, your complaint states
 24 that you suffered terror among other --
 25 A. Oh.

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1 DIKLER
 2 Q. -- conditions.
 3 A. It's from different way, you know.
 4 Q. What different way?
 5 A. Now when I see the police
 6 detective, I am real afraid.
 7 Q. Why?
 8 A. I don't know why, it just inside me
 9 because on my job, you must be cooperative with
 10 the police officer and I was and I am
 11 cooperative, but anyway, it's some feeling I
 12 can't explain. And if something when I see the
 13 regular police cop, but when I see the
 14 detective, I -- it's really scaring me.
 15 Q. How often do you see detectives?
 16 A. Now I know the detective when I see
 17 the guys with the badge and clothing and some
 18 special car, unmarked, I know this is
 19 detective.
 20 Q. Did you know what a detective's
 21 badge looked like before this arrest?
 22 A. No, I never saw them.
 23 Q. Are there any other ways in which
 24 you feel terror or fright?
 25 A. Sometimes in my job somebody tell

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1 DIKLER
 2 me oh, I remember when you was arrested.
 3 It's -- I feel bad after that, you know. Every
 4 time when I just remember this day, it's like
 5 four months ago, my oldest daughter, she's
 6 almost ten now, she tell me, she didn't know I
 7 was arrested, but she tell me, dad, you
 8 remember when you don't sleep at home? I
 9 didn't know if she remembered that, but she
 10 remembered and it feels...
 11 Q. Did the children go --
 12 MR. ZELMAN: Can you let him
 13 finish.
 14 A. I am finished.
 15 Q. And I only interrupted because it's
 16 nonresponsive to my question. Did your
 17 children accompany you on the vacation to
 18 Russia?
 19 A. No.
 20 Q. Who went on that vacation?
 21 A. I was alone.
 22 Q. So you didn't sleep at home with
 23 your children during those ten days, correct?
 24 A. Absolutely.
 25 Q. Does your daughter speak to you

22 (Pages 82 to 85)

Page 86

1 DIKLER
 2 about the ten days that you didn't sleep at
 3 home?
 4 A. She knows I was on vacation.
 5 Q. Okay. Were you caused any other
 6 mental injury that you can tell me about?
 7 A. A few months after that, it was
 8 just -- it was a terrible time for me, real
 9 terrible. Every time when I wear this badge
 10 (indicating), I remember about another badge,
 11 it's how it's connected.
 12 Q. And when you say this badge, you're
 13 pointing to Defendant's Exhibit B, the MTA?
 14 A. The shoulder badge.
 15 Q. Also the MTA issued badge?
 16 A. Right.
 17 Q. Okay. And this makes you remember
 18 the badge that you bought on your own?
 19 A. Yes, just refresh my memory every
 20 time.
 21 Q. That was not issued by the MTA?
 22 A. No.
 23 Q. No, it was not?
 24 A. No.
 25 Q. Have you lost any time from work

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1 DIKLER
 2 because of this feeling upset?
 3 A. I don't remember. I call myself
 4 sick a few times but I don't remember exactly
 5 what the reason was.
 6 Q. Could it have been related to your
 7 lower back problems?
 8 A. Yes.
 9 Q. And your kidney stones?
 10 A. Once.
 11 Q. And in terms of your co-workers
 12 that remind you that you were arrested, is this
 13 the person that you told about your arrest?
 14 A. I told him, just few people, but
 15 they told somebody else and after that almost
 16 everybody knew that.
 17 Q. Why did you tell a few people about
 18 your arrest?
 19 A. Because I want to inform them
 20 because they got the same badges. Like almost
 21 hundred percent of the bus operators, they
 22 carry the same badges.
 23 Q. As you sit here today, do you know
 24 if there is an MTA regulation against
 25 purchasing or wearing badges that are depicted

Page 88

1 DIKLER
 2 in Defendant's Exhibit A?
 3 MR. ZELMAN: Listen to the
 4 question. Do you know if there's an MTA
 5 regulation?
 6 A. Yes, now I know.
 7 Q. When did you first find out about
 8 this regulation?
 9 A. When I was arrested in few weeks
 10 after that in the depot, they put, the MTA put
 11 the big signs about the fake badges.
 12 Q. Do you know if this was in response
 13 to your arrest?
 14 A. I don't know.
 15 Q. Did you make any inquiries or did
 16 you ask Mr. Outlaw if that posting was related
 17 to your arrest?
 18 A. No, I didn't ask.
 19 Q. Do you know if any of your other
 20 colleagues, other bus operators have been
 21 arrested?
 22 A. Yes.
 23 Q. How many?
 24 A. I know two or three.
 25 Q. Were they arrested before or after

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1 DIKLER
 2 you?
 3 A. Before and after.
 4 Q. And did you know about those
 5 arrests before March 22nd 2006?
 6 A. No.
 7 Q. When did you find out that there
 8 were bus operators arrested before March 22nd
 9 2006?
 10 A. After I was arrested when I come
 11 back to the job.
 12 Q. Who told you?
 13 A. I don't remember.
 14 Q. Was it Mr. Outlaw?
 15 A. No.
 16 Q. Do you know if those bus operators
 17 were suspended from work?
 18 A. I don't remember.
 19 Q. Have you purchased another badge
 20 similar to the one that's depicted in
 21 Defendant's Exhibit A?
 22 A. I'm sorry, I don't understand the
 23 question.
 24 MS. PRIVETERRE: Can you read back.
 25 (Whereupon, the referred to

23 (Pages 86 to 89)

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1 DIKLER
 2 question was read back by the Reporter.)
 3 A. No.
 4 Q. Do you intend to?
 5 A. No.
 6 Q. Have you read the posting in the
 7 depot about fake badges?
 8 A. I'm sorry?
 9 Q. Did you read the posting?
 10 A. Yes, I read it. It was still on
 11 the wall for a few months.
 12 Q. Did you see either of the vendors
 13 that you testified about before at the depot
 14 after the posting was put up?
 15 A. No.
 16 Q. Did you say anything to Mr. Outlaw
 17 about these vendors?
 18 A. No.
 19 Q. Did you make any inquiries? Did
 20 you ask him why the vendors were permitted to
 21 sell out of the depot?
 22 A. No, I didn't ask him.
 23 Q. Why not?
 24 MR. ZELMAN: Objection. You can
 25 answer it if you understand the

Page 91

1 DIKLER
 2 question.
 3 A. If somebody sell any stuff inside
 4 the depot, it's mean he got official permission
 5 for that.
 6 Q. Who told you that it means that the
 7 vendor has official permission?
 8 A. Nobody can enter to MTA property
 9 without the permission to presence and make any
 10 business on MTA property.
 11 Q. But, sir, my question is, who told
 12 you?
 13 A. I don't remember.
 14 Q. Somebody did tell you and you
 15 forgot?
 16 A. I don't remember.
 17 Q. Did you use this as a part of a
 18 defence when you met with Mr. Outlaw that there
 19 was a vendor authorized to sell these badges
 20 out of the depot?
 21 A. I don't remember.
 22 Q. Did you ask Mr. Outlaw why you were
 23 being suspended if they were allowing vendors
 24 to sell out of the depot?
 25 A. I don't remember.

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1 DIKLER
 2 Q. Did your union rep make any
 3 inquiries about why a vendor was allowed to
 4 sell out of the depot?
 5 A. I don't know.
 6 Q. Did you tell your attorney or your
 7 union rep that you purchased this badge out of
 8 the depot?
 9 A. Sure, yes.
 10 Q. Other than the badge and the wallet
 11 that's depicted in Defendant's Exhibit A, is
 12 there any other property that you say was not
 13 returned to you?
 14 A. No, just wallet and badge, it's one
 15 piece actually.
 16 Q. The cards that are depicted in
 17 Defendant's Exhibit A, your license, New York
 18 State license and your MTA identification, they
 19 were returned?
 20 A. Yes.
 21 Q. Okay. Is there anything that you
 22 could do that you no longer do and you blame
 23 the arrest for it?
 24 A. After arrest, I stop play soccer.
 25 Q. Why is that?

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1 DIKLER
 2 A. Because I got the low back pain.
 3 And after that, I got the high blood pressure
 4 and my doctor tell me you can't anymore take
 5 this pressure and I stop play soccer, and it
 6 was the real big part of my life because it was
 7 my job for almost ten years in the Soviet
 8 Union.
 9 Q. Were you a professional soccer
 10 player?
 11 A. For ten years.
 12 Q. Have you been treated for
 13 hypertension prior to the arrest?
 14 A. I'm sorry?
 15 Q. Prior to the arrest, March 22nd
 16 2006, had you been treated by any doctors for
 17 hypertension?
 18 A. I don't remember, I don't remember.
 19 Q. Had you been advised by any doctors
 20 to lose weight because it affected your blood
 21 pressure?
 22 A. Yes.
 23 Q. Prior to your arrest?
 24 A. After. I don't have problems,
 25 blood pressure before arrest.

24 (Pages 90 to 93)

Page 94

1 DIKLER
 2 Q. Had you been advised by any
 3 physician concerning your weight prior to the
 4 arrest?
 5 A. No.
 6 Q. Did Dr. Weiss attribute your
 7 hypertension to the arrest?
 8 A. I'm sorry?
 9 Q. Did Dr. Weiss blame your arrest as
 10 the cause of the hypertension?
 11 A. He call it, it's maybe one of
 12 reason.
 13 Q. What are the other reasons?
 14 A. Now it's my weight.
 15 Q. But when you first complained to
 16 Dr. Weiss about hypertension, did he say that
 17 it was a number of reasons?
 18 A. He call me just about my job,
 19 because you almost not move, just sit job.
 20 Arrest and weight. Because I spend the night
 21 in the jail, I didn't sleep, I sit on the
 22 floor, it's like that.
 23 Q. But Dr. Weiss also blamed the
 24 hypertension partly because your job is to sit
 25 a lot, to be sedentary, is that what he was

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1 DIKLER
 2 saying?
 3 MR. ZELMAN: Objection.
 4 A. I don't remember.
 5 Q. And the soccer, why do you blame
 6 the arrest for not being able to play soccer?
 7 A. Because I start feel the low back
 8 pain after arrest.
 9 Q. But isn't it your testimony that
 10 Dr. Weiss said that the lower back problems
 11 were partly caused by the kidney stones?
 12 A. It's could be connect.
 13 Q. Did he explain how it could be
 14 connected to the arrest?
 15 A. Yes, because he tell me you spend
 16 the night on the metal bench, doesn't move for
 17 almost 12 hours, it was about, I don't
 18 remember, 35, 40 guys in the cell and he tell
 19 me it could be the reason.
 20 Q. Had you experienced lower back pain
 21 prior to March 22nd 2006?
 22 A. Once many times ago, far ago.
 23 Q. Did Dr. Weiss say that your job as
 24 a bus driver being sedentary for a number of
 25 hours a day was also a reason for the lower

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1 DIKLER
 2 back pain?
 3 A. He tell me it could be one of
 4 reasons.
 5 Q. Anything else other than the
 6 hypertension and the soccer?
 7 MR. ZELMAN: Objection to form.
 8 A. Before, before, I can spend like 16
 9 hours driving the car and I didn't feel
 10 nothing. And now, after each two hours, I have
 11 to make some warmup, stretch my legs, like
 12 that. And now I real feel it.
 13 Q. Presently, you still feel problems
 14 in your lower back?
 15 A. Yes, I just -- I lost ten days on
 16 the job just two weeks ago and that's why I
 17 change my doctor because I need a specialist.
 18 Q. What's the new doctor's name?
 19 A. Michael Riskevich.
 20 Q. I'm sorry.
 21 A. I gave it.
 22 Q. Yes, you did. Has Dr. Riskevich
 23 told you that the reason for your lower back
 24 pain is the arrest?
 25 A. No.

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1 DIKLER
 2 Q. And the subsequent detention?
 3 A. No. I just changed the doctor like
 4 three weeks ago.
 5 MS. PRIVETERRE: I have no further
 6 questions.
 7 EXAMINATION BY
 8 MR. SILVERMAN:
 9 Q. In connection with your job at the
 10 MTA, you're required to take annual physicals?
 11 A. I'm sorry?
 12 MR. SILVERMAN: Can you read back
 13 the question.
 14 (Whereupon, the referred to
 15 question was read back by the Reporter.)
 16 A. What do you mean physicals?
 17 Q. Were you ever given a physical by
 18 anyone on behalf of the MTA?
 19 MR. ZELMAN: Physical examination.
 20 Q. That you're okay to work.
 21 A. I got physical examination every
 22 six months.
 23 Q. Is that by a doctor on behalf of
 24 MTA?
 25 A. By MTA doctors.

25 (Pages 94 to 97)

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1 DIKLER
 2 MR. SILVERMAN: I would just ask
 3 for authorization to obtain the medical
 4 records for the MTA pertaining to any
 5 six-month or biannual physical
 6 examinations for a period of two years
 7 prior to this incident up to the present
 8 time.
 9 MS. PRIVETERRE: I join.
 10 MR. ZELMAN: I ask any document
 11 demands be put in writing.
 12 MR. SILVERMAN: Sure.
 13 Q. As a result of this incident, was
 14 any reprimand ever placed in your personnel
 15 file?
 16 A. I don't understand.
 17 Q. Was any letter or report or
 18 anything generated concerning this incident, to
 19 your knowledge, in your personnel file for the
 20 MTA?
 21 A. Yes, sure.
 22 Q. Do you have a copy of that letter
 23 whatever it was?
 24 A. No, but I signed some paper on my
 25 job, this is going to my file, the sentence

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1 DIKLER
 2 from judge going to my file, the paper about my
 3 suspension what I signed goes to my file.
 4 MR. SILVERMAN: Okay. I would just
 5 ask for an authorization which we'll
 6 follow up in writing for Mr. Dikler's
 7 personnel file with the MTA to the
 8 extent that there were any issues of any
 9 privileged or private records or
 10 documents as part of that MTA file, I
 11 would be willing to consent to an in
 12 camera inspection by the judge. I have
 13 no further questions.
 14 MS. PRIVETERRE: I join.
 15 MR. ZELMAN: I have a quick
 16 question.
 17 EXAMINATION BY
 18 MR. ZELMAN:
 19 Q. Earlier she asked you if you
 20 sustained a psychological injury as a result of
 21 the incident and you said no, correct?
 22 A. No, it was a wrong answer.
 23 MS. PRIVETERRE: It was the wrong
 24 what?
 25 THE WITNESS: Wrong answer.

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1 DIKLER
 2 Q. Why did you say --
 3 A. Because if I can't sleep for
 4 months, I call it suffering too now. But I
 5 don't understand this question before, that's
 6 why I say no.
 7 MS. PRIVETERRE: When did you
 8 realize you didn't understand the
 9 question?
 10 MR. ZELMAN: Can I finish my
 11 questioning?
 12 Q. In addition, you indicated that you
 13 were suspended from the MTA for five days
 14 because you told them that you were sick
 15 instead of telling them you were arrested,
 16 correct?
 17 A. It's all connected, yes.
 18 Q. Was there any other reason that you
 19 were disciplined by the MTA other than the fact
 20 that you told them you were sick when you were
 21 arrested?
 22 A. No.
 23 Q. That's the only reason?
 24 A. Yes.
 25 MR. ZELMAN: No further questions.

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1 DIKLER
 2 CONTINUED EXAMINATION BY
 3 MS. PRIVETERRE:
 4 Q. The paper that you signed during
 5 your meeting or following your meeting with
 6 Mr. Outlaw, is it still your testimony that
 7 that document made reference to your having
 8 been arrested for carrying a fake badge?
 9 MR. ZELMAN: Objection.
 10 A. I'm sorry?
 11 MS. PRIVETERRE: Can you read that
 12 back, please.
 13 (Whereupon, the referred to
 14 question was read back by the Reporter.)
 15 A. Yes.
 16 Q. And in terms of your changed
 17 response concerning psychological injuries, is
 18 it still your testimony that you have never
 19 seen a psychologist?
 20 MR. ZELMAN: Objection.
 21 A. No, I never seen psychologist.
 22 Q. Have you ever seen a psychiatrist?
 23 A. No.
 24 MR. ZELMAN: Objection.
 25 Q. Have you ever seen a mental health

26 (Pages 98 to 101)

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1 DIKLER
 2 provider?
 3 A. No.
 4 Q. Is there a reason why you didn't
 5 seek help if you were bothered by sleepless
 6 nights?
 7 A. The reason why I didn't seek the
 8 psychologist or psychiatrist, that's because my
 9 insurance doesn't cover that, it's about money,
 10 I got the kids. But I really can't sleep for
 11 months, that's my answer.
 12 MS. PRIVETERRE: No further
 13 questions.
 14 CONTINUED EXAMINATION BY
 15 MR. SILVERMAN:
 16 Q. Is it your testimony, as we sit
 17 here today, that for an extended period after
 18 this incident you didn't sleep more than an
 19 hour a night?
 20 A. Yes.
 21 Q. And that went on for weeks, months?
 22 A. With months.
 23 Q. Did you ever mention any lack of
 24 sleep to any of the doctors who examined you on
 25 behalf of the MTA?

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1 DIKLER
 2 A. No.
 3 Q. Did you ever mention any lack of
 4 sleep to any doctors after this incident?
 5 A. No, because...
 6 Q. I'm just asking, did you ever
 7 mention that to any of your doctors?
 8 A. No, I was on vacation, and after
 9 that I was suspended, it was almost month.
 10 Q. For how long a period of time was
 11 it that you had the sleep issues that you're
 12 referring to?
 13 A. About month.
 14 Q. One month?
 15 A. Yes.
 16 Q. Did you ever work for that
 17 one-month period of time?
 18 A. No.
 19 (Continued on next page to include
 20 jurat.)
 21
 22
 23
 24
 25

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1 DIKLER
 2 Q. So for the one-month period you had
 3 these sleep issues, you were not working?
 4 A. No.
 5 MR. SILVERMAN: Okay. I have
 6 nothing further. Thank you.
 7 (Whereupon, at 1:08 p.m., the
 8 Examination of this Witness was
 9 concluded.)
 10
 11 YEVGENIY DIKLER
 12
 13 Subscribed and sworn to before me
 14 this ____ day of ____, 20__.
 15
 16 NOTARY PUBLIC
 17
 18
 19
 20
 21
 22
 23
 24
 25

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1 DIKLER
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 3
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DIKLER
CERTIFICATE

STATE OF NEW YORK)
: SS.:
COUNTY OF KINGS)

I, MARGALIT EWART, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and that
such examination is a true record of the
testimony given by that witness.

I further certify that I am not related
to any of the parties to this action by blood
or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 2nd day of April, 2008.

Margalit Ewart
MARGALIT EWART

28 (Pages 106 to 108)

1

ERRATA SHEET

2 I wish to make the following changes, for the
3 following reasons:

4 PAGE LINE

5 -----

CHANGE:-----

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REASON:-----

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CHANGE:-----

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